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DAN R. BROUILLETTE, STAFF DIRECTOR

June 3, 2003

The Honorable Robert B. Zoellick
U.S. Trade Representative
Office of the United States Trade Representative
600 17th St. NW
Washington, DC 20508

Dear Ambassador Zoellick:

In July 25, 2002, I was joined by many of my colleagues in writing to you expressing our concern about the discriminatory impact of the European Union's Value Added Tax (EU VAT) Directive on U.S. companies seeking to provide Internet-related products and services to the European market. In that letter I noted that the committee I chair, the House Energy and Commerce Committee's Subcommittee on Commerce, Trade and Consumer Protection, had examined both the domestic and international treatment of digitally delivered goods and services. The Committee, to date, has conducted extensive review of barriers impeding the growth of e-commerce both within our borders and overseas.

Today, I am again joined by many of my colleagues in asserting that the discriminatory impact of the EU VAT Directive on U.S. companies violates the General Agreement on Trade in Services (GATS).

The Directive, which is set to take effect on July 1, will impose discriminatory requirements on U.S. (and other non-EU) companies by raising the price of U.S. products and services and by forcing American companies to comply with 15 different sets of onerous requirements imposed by EU Member States (or of going through the burden and expense of establishing significant facilities in Europe).

In many circumstances, the Directive will require non-EU suppliers to charge VAT on sales to EU consumers at rates higher than their EU competitors would charge on sales of the same product to the same consumers. For example, if a US supplier provides digital downloads of music and videos online or web hosting services to a consumer located in Sweden, the supplier must charge 25% VAT (the Swedish rate).

However, a French supplier selling the same services to the same consumer in Sweden would only be required to charge 19.6% (the French rate). In this example, the playing field in the Swedish market would be unfairly tilted against the U.S. company once the Directive takes effect.

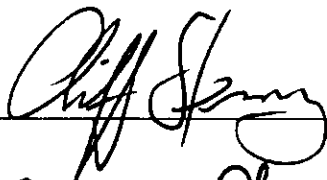
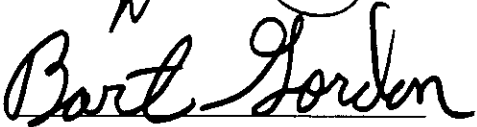
In addition, U.S. suppliers will be subject to more burdensome (and thus far, ill-defined) administrative requirements. Indeed, they will have to comply with 15 sets of such requirements in order to serve customers throughout the EU (or else go through the burden and expense of setting up in Europe). U.S. companies will have to employ new staff and expend significant resources to 1) identify the location of their customers; 2) separately calculate the amount of VAT due to each EU member state; 3) maintain records for 10 years regarding these transactions; and 4) be subject to audit by 15 different tax authorities under 15 different sets of audit standards (one for each EU member state). For their part, EU companies need only comply with the VAT rules of their home jurisdiction. Fulfilling these onerous requirements will be extremely expensive and will place U.S. e-commerce companies at a competitive disadvantage.

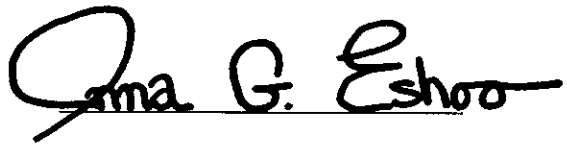
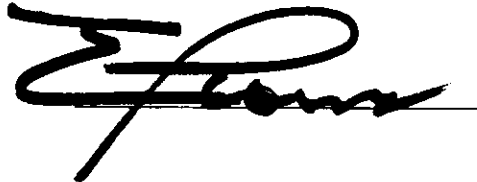
Lastly, while our objective is to overturn the Directive entirely, we note a distressing trend in the Directive's implementation. Not only is it, for the foregoing reasons, violative of extant trade agreements, the Directive apparently will be implemented considerably more broadly than had been discussed with U.S. officials and industry during its drafting. We are particularly concerned about the EU's implementation guidelines issued this spring that would effectively expand the longstanding working definition of "Electronically Supplied Services" to which the VAT would be applied.

As we are sure that you are aware, these remain challenging times for many American Internet companies. They are fighting hard to make their businesses work and to reach global markets, thus helping to drive the American economy. We ask that they be given a fair chance and a level playing field. The EU VAT Directive will have the effect of discriminating against U.S. companies in violation of the GATS. On this basis, we strongly urge you to bring a case at the World Trade Organization to redress this discrimination.

We appreciate your attention to this matter and await your response.

Sincerely,

Nikki Ferguson

~~Ken~~ Ken

Charles F. Bass

Roy Blunt

Billy Ivey

John II-19

Diana Abbott

Bart Eyrick

Doug Walden